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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,380	09/17/2003	Ronald P. Spinello	1282-8CIP	4560

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EXAMINER

MACNEILL, ELIZABETH

ART UNIT PAPER NUMBER

3767

DATE MAILED: 11/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/664,380

Applicant(s)

SPINELLO, RONALD P.

Examiner

Elizabeth R. MacNeill

Art Unit

3767

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
4a) Of the above claim(s) 30-45 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-29 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This action is in response to applicant's amendments submitted 11 September 2006.

The applicant and Examiner have scheduled an interview for Tuesday, December 2, at 9:00 am.

Election/Restrictions

1. This application contains claims 30-45 drawn to an invention nonelected with traverse in Paper No. 17 September 2006. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over MALMIN (US 3,974,831) in view of POND (US 2002/0142260).

Regarding claim 1, Malmin teaches a disposable dental syringe kit with a needle handle (10) comprising a proximal bore in fluidic communication with the distal end of a fluid conduit (11), the needle handle comprising a distal bore (near 26a) for receiving the proximal end of a double ended needle (44), a connector (threads 11c and 11d), and a

pierceable seal (28). Malmin does not teach flexible tubing for carrying anesthetic fluid which is in fluidic communication with the proximal end of the fluid conduit.

Pond teaches a dental handpiece with a needle (30) connected to a needle handle (generally 12) in fluid communication with flexible tubing (not shown, connected at 26) in order to deliver a fluid to the patient. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the needle handle of Malmin with the flexible tubing of Pond, since it is well known in the dental art to use flexible tubing to connect a hand piece to a source of fluid in order to make the needle easier to maneuver in the mouth.

Regarding claims 2-4,6,7,10,11,13 and 16-28, Malmin discloses that the seal is made from a rubber-like material (col. 4, lines 1-10). The seal is cylindrical, ovoid and flat. The seal is received in a recess formed by element 43a. A portion of the needle handle (21) is compressed during attachment of a double-ended needle to said needle handle. There are at least two recesses adjacent to the seal 23 and the one formed by element 43a. Malmin also discloses a guide 22.

In reference to claims 5 and 12, Malmin discloses a seal that is ovoid in shape. Malmin, however, does not disclose expressly a rectangularly shaped seal. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to change the shape of the ovoid seal to one that is rectangular because Applicant has not disclosed that a rectangular seal provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform

Art Unit: 3767

equally well with ovoid seal of Malmin because both seal provide the function of sealing the interior of the needle handle from contaminants. Therefore, it would have been an obvious matter of design choice to modify Malmin to obtain the invention as specified in claims 5 and 12.

In reference to 8, 9, 14, 15 and 29, Malmin discloses the claimed invention as shown above. Malmin, however, does not disclose the use of an adhesive to attach the seal to the needle handle. Malmin uses an interference fit. Applicant suggests the use of cyanoacrylate as the preferred adhesive. See specification p. 31, paragraph 2. Cyanoacrylate is a well-known adhesive used in many biomedical applications. It is considered well-within the skill of an ordinary artisan to use an adhesive such as cyanoacrylate to attach the seal to the needle handle instead of an interference fit. Such an alternative would be readily recognized by the artisan to be functionally equivalent.

Response to Arguments

3. Applicant's arguments with respect to claims 1-29 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth R. MacNeill whose telephone number is (571)-272-9970. The examiner can normally be reached on 7:00-3:30pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571)272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3767

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ERM

*Elizabeth
Macellulli*
11/14/06

KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER

Kevin C. Sirmons